

**ARIZONA SUPREME COURT**  
Child Support Guidelines Review Committee  
**MEETING MINUTES**  
January 23, 2009  
State Courts Building, Phoenix, Arizona

**MEMBERS PRESENT:**

Hon. Rebecca Albrecht  
Mr. Robert L. Barrasso  
Hon. Bruce R. Cohen, Chair  
Ms. Helen Davis  
Prof. Ira Ellman  
Ms. Kim Gillespie  
Ms. Cele Hancock  
Mr. David Horowitz  
Comm. Rhonda Repp  
Hon. Michala Ruechel  
Hon. Sarah Simmons  
Hon. Kevin White

**STAFF:**

Kathy Sekardi  
Lorraine Nevarez

**GUEST PRESENT:**

Tara Ellman  
Patricia Madsen  
Dr. Jane Venohr

**MEMBERS ABSENT:**

None

**Call to Order**

Judge Cohen, Chair, called the meeting to order at 10:17 a.m. Judge Cohen welcomed the members and reviewed the meeting materials.

**Approval of the Minutes**

To approve the December 16, 2008 minutes.

**MOTION:** The December 16, 2008 minutes were tabled prior to approval to allow time for incorporation of recommended changes from Ira Ellman.

**Developing questions regarding Phase 1**

The Committee members reviewed the draft of the final product for Phase I. Jane Venohr, Ph.D., and consultant from the Center for Policy Research will join the meeting shortly in order to answer the Committee's questions regarding Phase I. The Chair reminded the Committee that Phase I and Phase II are not competing goals, they are options.

The Committee proposes to discuss the following with Dr. Venohr:

- What data is relied upon and what methodology is used?
- The Committee recognizes that the support numbers are too high in the low-income areas and too low with higher-incomes. As disparity increases the

custodial parent's income becomes less adequate, in other words the children who live with a custodial parent with low-income are worse off than living with the higher income parent. Is there a solution to high disparity situations?

- Were Betson's most current findings (taken into consideration) regarding there being no significant decline in the percentage of child support when total spending increased? Is the outcome the same when considering the current economy?

### **Discuss Arizona 2008 Case File Review and Schedule:**

Dr. Venohr appeared telephonically to answer committee questions and to provide historical information on prior reviews.

Questions and comments were as follows:

*Q/C:* Some of the people on the committee have different levels of knowledge of how the chart is constructed and what the underlying assumptions are that the report is based upon.

*A:* From the late 1980's child support guidelines were required and at the same time legislation authorized a committee to assist states develop guidelines. The committee developed principles that state models should include such as being gender neutral, requiring both parents to share in the financial responsibility of the children, recognizing that guidelines generated should be more than the poverty amount, the child should share in the life style the parents can afford, the notion that payment of child support should not expose the other parent to poverty, and the other spouse's income shouldn't be considered. The committee looked at a few states that were using various types of guidelines. Specifically, they looked at Washington State which was using the Income Shares Model. The Income Shares Model was based on estimates of expenditures of intact families.

Arizona's first child support guidelines were based on the Income Shares Model. In the late 1980's Arizona relied on Espenshade's estimates of total child rearing expenditures. Today, however, the Betson/Rothbarth estimates are used in Arizona's Income Shares Model as Betson's studies, estimating child-rearing expenditures, are based on more current data. Both methodologies used a "marginal cost approach" which looks at two families that are both equally well-off, one family without children, and one family with children. To separate the child expenditures from the adult expenditures, the difference between the two families spending is regarded as the child rearing expenditure. The Engle methodology relies upon food shares, while the Rothbarth methodology relies upon "adult goods."

*Q/C:* What are total family expenditures?

*A:* The Engle methodology uses food shares to determine equally well off families. The Rothbarth methodology uses expenditures on adult goods. Some estimates focus on luxury items such as alcohol and tobacco, while other surveys use adult clothing.

*Q/C:* The data did not look at all expenditures it just compared what the equally well off families with no children spend on food and they compared that?

A: They look at total family expenditures, which would include food, clothing, shelter, electric bills, and vehicle.

*Q/C:* What data was used to update?

A: The data was updated from the consumer price index. It is a percentage that gets applied to income.

*Q/C:* What is included in the savings other than the traditional use of savings?

A: It includes 401(K) contributions, net vehicle outlays, savings, rent or mortgage interest, property taxes, electric bills, gas, dues to HOA, vehicle finance charges, maintenance, public transportation, life insurance and there may be a few more.

*Q/C:* Is the market basket data in the consumer price index consistent with the same market baskets that were used in the original index?

A: Probably not, it has to change because things go out of style.

*Q/C:* One general observation is that the basic child support obligation in the 2003 update was reduced in the higher-income families and in this current update it is increased. Also, the child support increased for low-income earners in 2003 as well as in this new update. What contributes to the fact that higher income people in 2003 receive a reduction of child support and this current report suggests the amount increases for the lower income people?

A: Dr. Venohr discussed Exhibit 1, page 2 of the draft final indicating that price levels have increased which results in increases across the board. Child care and health insurance have caused dramatic changes, as well as double-digit interest rates and 401-(K)'s were new. The tax rates from the eighties and nineties make some difference in addition to tax reform in 2003 and 2004.

*Q/C:* If we look at a family that has one child versus a family that has two children with the same amount of income, there is a slight decrease in the child support for one child. Why is that?

A: This is an anomaly. Part of the problem is with families earning less than \$35,000 per year, the family spends more than what is earned so the income is capped at 100% rather than at 150%. For example, in this situation the number decreases when converted.

*Q/C:* As we understand it, Dr. Betson reported that as income increases a percentage of family spending on the child decreases. Is this notion still embraced?

A: Not aware of this information in the 2006 report. Total expenditures on the child are looked at. There are some studies that suggest this notion may be consistent but when the numbers are converted to gross income guidelines, there may be confusion with progressive tax rates. There may also be some confusion as the Arizona guidelines are based on gross income.

*Q/C:* Assume a situation where there is \$7,000 combined income for a family. Where both parents earn equally (\$3,500/month) the child lives in households that are essentially well off. Now consider the same combined income of \$7000/month, however, the custodial parent earns \$1,000/month, while the non-custodial parent earns \$6,000/month. Or, the custodial parent earns \$6,000/month and the non-custodial parent earns \$1,000/month. The child in the physical custody of the higher income parent is financially better off in these economically disparate situations. The inadequacy of a child support order at these low-income levels may be aggravated if there is a significant adjustment for parenting time. The consensus of the committee members is that deviations are not being requested with these large disparity situations.

*A:* Other states are doing things different than Arizona. For example, New Jersey does not trigger a time sharing adjustment unless the obligee has more than 200% of the poverty level income. Arizona may want to consider a minimum order, or may want to consider that each additional child will be X amount of dollars.

Dr. Venohr stated she will send to staff to distribute to the committee members a report that details, step by step, an explanation of the data process.

### **Report from Spreadsheet Study Task Group**

Ira Ellman and Judge Cohen discussed the results from the last Spreadsheet Study Task Group meeting. Ira Ellman explained next steps:

- Dr. Barnow will look at incomes below \$1000 for the NCP and will build in a zero support amount when the incomes are below \$1000. (To reconcile with the self-support reserve test.)
- The GRC should think about those cases where the CP's income is truly zero, guidelines say the court can impute income. The committee will decide if this section requires more in-depth clarification for imputing income in these cases.
- Need to extend NCP incomes and push the chart out to \$30,000 per month.
- The consensus of the committee is to keep some kind of parenting time adjustment; however, the parenting time adjustment cannot just be incorporated or laid right into Phase II grids. Judge Cohen asked the task group to discuss ideas regarding incorporation of a parenting time adjustment such as the solutions offered by Dr. Venohr.
- The task group was also asked to look at equal parenting time, situations where there are two or more children with different parenting time schedules, and split custody.

### **Discuss and review Phase II findings**

Judge Cohen, Chair, reminded the members that transparency is critical in the review process as it relates to Phase II findings. Is the process clear enough so updates can be done easily and future reviews are provided with a method to update?

### **Discuss/review Guidelines Sections**

The Committee made changes to the following sections:

Section 5: Added headings for ease of use. Also, the Committee reorganized the language within new section “C” for clarity. Replaced words “attribute” and “consider” with the word “include” for clarity.

Kim Gillespie will inform the committee about the Bradley Amendment and its impact on retroactive modification. Bob Barrasso will report on the Hetherington v. Hetherington.

**Develop February 27, 2009 Agenda**

The Committee proposed the following agenda items:

1. Call to Order
2. Approval of Minutes
3. Bradley Amendment
4. Hetherington v. Hetherington
5. Discuss Phase II Report
6. Continue to discuss/review guideline sections.

**Call to the Public**

An email was sent to Staff by Joseph Campbell regarding equal parenting time. The Committee reviewed the comment and will forward the comment to the appropriate task group for further discussion and review.

**Adjourn**

The meeting was adjourned at 2:09 p.m.